



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

October 25, 2004

Peter Chamberlin
SAU 65
190 Main Street
New London, NH 03257

**NOTICE OF NON-COMPLIANCE and
PERMIT REVOCATION – NCPR # 04-062**

RE: NEW LONDON, KEARSARGE REGIONAL ELEMENTARY SCHOOL, EXISTING
UNDERGROUND STORAGE TANK FACILITY (UST #A-0115621) DES #200402011)

Dear Mr. Chamberlin:

The New Hampshire Department of Environmental Services ("DES") is hereby notifying you that the above-referenced facility, located at 4 Cougar Court, New London, NH is not in compliance with New Hampshire Code of Administrative Rules Env-Wm 1401, regulating Underground Storage Facilities. On February 9, 2004 a DES inspector conducted a compliance audit at the facility. A written document, describing the deficiencies was provided to the facility representative. This document required the facility be returned to compliance within 45 days, and DES be notified of the corrective measures taken. Compliance has not been achieved. **Failure to achieve compliance with the following deficiencies within 90 days from the date of this Notice of Non-Compliance and Permit Revocation ("Notice") will result in revocation of your Permit-to-Operate on January 23, 2005. This letter contains important compliance and procedural information. Please read it carefully. Also, note that due to the non-compliance status of your facility a Proposed Administrative Fine will be issued under separate cover.**

Env-Wm 1401.11 Inventory Monitoring

Env-Wm 1401.11 requires inventory monitoring be conducted and inventory records be maintained on motor fuel, hazardous substance and bulk heating oil systems without secondary containment and leak monitoring for both tank and piping. DES has determined that inventory monitoring was not being conducted for the 10,000-gallon #2 fuel oil UST. Inventory monitoring or release detection as a substitute for inventory monitoring as specified in Env-Wm 1401.29 and Env-Wm 1401.30 must be conducted for the UST. One month of inventory monitoring or release detection results for the UST shall be provided to DES.

2. Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.31 requires leak monitoring equipment and devices to be maintained in good working order at all times to continuously perform their original design function and to be tested annually for proper operation. DES has determined that the annual test documentation was not available for the tank and piping leak monitoring equipment and devices for the UST. The annual test documentation for the tank and piping leak monitoring equipment and devices for the UST shall be provided to DES.

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3 Env-Wm 1401.32 Corrosion Protection for Steel Tanks

Env-Wm 1401.32 requires corrosion protection systems be tested within six (6) months of installation and every three (3) years thereafter. Also, monitors for impressed current systems shall be inspected every 60 days to ensure equipment is running properly. DES has determined that corrosion protection testing had not been performed. Corrosion protection test results for the UST shall be provided to DES.

In addition, Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirement. This facility has not achieved compliance, consequently, the Fund is not available to you as a financial responsibility mechanism.

In accordance with RSA 146-C:4 and Env-Wm 1401.07(a), no person shall own or operate an underground storage facility without a permit issued by DES. Within 30 days from the date of the permit revocation the facility shall be closed in accordance with Env-Wm 1401.18 for permanent closure.

Based on the compliance deficiencies described above, DES believes this facility poses a potential substantial threat to the surface and groundwater of the state. Therefore, in accordance with RSA 146-C:4 and Env-Wm 1401.09, if compliance as requested above is not achieved within ninety (90) days of the date of this Notice your Permit-to-Operate (UST Permit #0115621) shall be revoked effective **January 23, 2005**. Within thirty (30) days of the date of permit revocation all regulated substances must be removed from the UST systems at this facility. If the facility achieves compliance during the ninety (90) day period, it is necessary that documentation be submitted to DES verifying that compliance has been attained.

You have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which you and any witnesses you may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If you wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31 III(e) provides that you have the right to have an attorney present to represent yourself at your own expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) you have the right to request DES to provide a certified shorthand court reporter at your own expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

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You may waive your right to a hearing. If you waive the hearing, DES is prepared to proceed with the actions as stated above. You should notify DES of your decision by filling out and returning the enclosed form.

If there are any questions concerning the above, I may be contacted at the Waste Management Division at (603) 271-1165.

Sincerely,

COPY

Lynn A. Woodard, P.E.

Supervisor

Oil Compliance and Initial Response Section

CERTIFIED MAIL # 7000 1670 0000 0584 4479

cc: Michael P. Nolin, Commissioner
Gretchen R. Hamel, DES Legal Unit
Fred McGarry, P.E., Chief Engineer, WMD
George Lombardo, P.E., WMD
Tom Beaulieu, WMD
Mark Antonia, WMD
Health Officer, Town of New London

***** RETURN THIS PAGE ONLY *****

APPEARANCE

I desire a hearing in accordance with Env-Wm 1401 regarding the Permit

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

Signature Date: _____

WAIVER OF HEARING

I certify that I understand my right to a hearing regarding the revocation of the Permit and that I hereby waive those rights.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

Signature Date: _____

Please return to:

Department of Environmental Services Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095